

UNITED STATES DISTRICT COURT

for the
District of New MexicoUnited States of America
v.
Derek Nicholas Padilla (YOB: 1990)

Case No.

20-MJ-1130

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 20, 2020 in the county of Santa Fe in the
State and District of New Mexico, the defendant(s) violated:*Code Section*
18 U.S.C. Section 641*Offense Description*
Theft of Government Property

This criminal complaint is based on these facts:

See attached Affidavit.

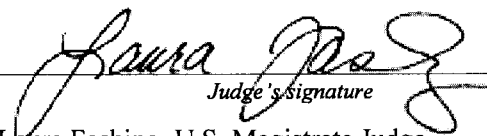
☒ Continued on the attached sheet.

Complainant's signature

Carleen Fischer, BIA Special Agent

Printed name and title

Sworn to before me by telephone or other reliable electronic means.

Date: May 27, 2020City and state: Albuquerque, NM

Judge's signature

Laura Fashing, U.S. Magistrate Judge

Printed name and title

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO
MAY 28 2020MITCHELL R. ELFERS
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

United States of America

vs.

Name: Derek Nicholas Padilla
Born: 1990

Case No. _____

(FILE UNDER SEAL)

AFFIDAVIT

I, Carleen Fischer, being first duly sworn, hereby depose and state as follows:

I am a Special Agent with the Department of Interior, Bureau of Indian Affairs, Office of Justice Services, Northern Pueblos Agency have been with the Bureau of Indian Affairs since September, 2000. My primary duties are investigating major crimes, including violent crimes that occur on the Indian Reservations to which I am assigned. I have a Bachelor's Degree from Oklahoma State University, and I have over nineteen years of law enforcement experience with the Bureau of Indian Affairs, Office of Justice Services. I completed the Basic Criminal Investigation Training Course at the Federal Law Enforcement Training Center in Glynco, Georgia, and Council of Law Enforcement Education and Training Basic Police Academy in Oklahoma. In addition I have maintained at a minimum the 40 hours of job related annual professional trainings. I have over 12 years conducting investigations of violent and non-violent Federal crimes within Indian Country. I have over five years working in a supervisory capacity working with tribal police as well as Federal, State and Tribal partners.

This affidavit is made in support of an Arrest Warrant against Derek Nicholas Padilla, (YOB: 1990) for the following crimes: 18 USC § 641, Theft of Government Property.

The information set forth in this affidavit is known to me as a result of my own investigation and/or has been communicated to me by law enforcement officers with the Bureau of Indian Affairs (BIA), Office of Justice Services, Northern Pueblos Agency, New Mexico State Police, and the Santa Fe County Sheriff's Department.

The events set out herein occurred at the BIA Storage Compound located on Arroyo Cuyamungue Road, Santa Fe County, in the State and District of New Mexico. The BIA Compound is located within the boundaries of the Pueblo of Nambe Pueblo Land Grant.

The victim is the Bureau of Indian Affairs - Northern Pueblos Agency (BIA-NPA), Ohkay Owingeh, New Mexico, is a Federal agency for the purpose of 18 U.S.C. 641.

The suspect, identified as Derek Nicholas Padilla, YOB: 1990, is a non-Indian male. Derek Nicholas Padilla will be referred to as Padilla within this affidavit.

On May 20, 2020, Santa Fe County Sheriff's Department Office (SFCSO) Deputies responded to an abandoned vehicle located on Arroyo Cuyamungue Road, Santa Fe, NM. The vehicle is described as a 2019 QX50 Infiniti SUV, grey in color, License Plate: Tennessee, Manufacture Tag #53DL32, VIN 3PCAJ5M33KF109866. SFCSO Deputies tried to identify the registered owner by running the vehicle license plate and the Vehicle Identification Number (VIN). However, the vehicle did not return to a registered owner. Deputies examined contents inside the vehicle to try and find owner information and observed an EBT card with the name Derek Padilla. Deputies also notice several firearms in the hatchback/back seat area of the vehicle. The

serial numbers on the firearms were ran through the National Crime Information Center (NCIC). As a result, some of the firearms were identified to belong to the Bureau of Indian Affairs, Office of Justice Services. Bureau of Indian Affairs (BIA), Police Officer Bryan King was dispatched to the scene.

The area where the grey SUV was located was on a road entering Nambe Pueblo lands which is a gated road. This road leads to a BIA-NPA Office of Justice Services (OJS) and BIA-NPA Fire storage compound building, which is within a fenced/gated area in Nambe, New Mexico. After Officer Bryan King responded to the scene he proceeded to the Nambe Pueblo gated area and went to the BIA storage compound to check and see if the building was secured. While checking the building, Officer King noticed the door to the BIA-OJS Evidence Room was breached and shut when he touched the door. BIA Special Agent (SA) Carleen Fischer was contacted and responded to the scene. After being briefed by Officers, the vehicle was photographed prior to being towed to the main BIA-NPA Agency in Ohkay Owingeh, New Mexico, where it was secured until a full search and inventory could be conducted.

BIA Officers and Agent(s), along with SFCSD Deputies proceeded to the BIA-NPA storage compound. After clearing the building, SA Fischer and Officers processed the scene and collected evidence. During the search, agent(s) and officers noticed the wires on the building security system, located in the BIA-OJS Evidence room, had been cut and the system had been removed. There was indication that someone had been living in the building as there was clothing under a desk in one of the offices. In addition, boxes of Meals Ready-to-Eat (MRE's) belonging to BIA Fire Agency, had been opened and some were laying on the desk. There were also empty MRE's and plastic bottles in the trash near the MRE boxes. BIA NPA Forestry employee, Norman Jojola, arrived on scene to identify missing items from BIA Fire. Mr. Jojola

confirmed a 2019 truck, which was parked in one of the bins was missing. The vehicle was describe as a White Ford F-250, 4 door, pickup truck (utility truck), with government license Plate: G633736W, VIN: 1FD7W2B6XKEF82250. The vehicle was entered into NCIC as a stolen vehicle.

While at the compound, SFCSD Deputies advised they spotted Derek Padilla and made contact with him after spotting him between two trailers located on Nambe Pueblo lands, approximately a mile away from the BIA Compound. Padilla voluntarily agreed to go with SFCSD Deputies and was transport to the BIA NPA Compound to speak with investigators. Prior to speaking with Padilla, he was advised he was not under arrest and was read his Miranda Rights, due to the fact he had been transported by law enforcement. Padilla waived his rights and agreed to speak with SA Fischer and was interviewed. Padilla denied going into the BIA compound building with the exception of two weeks prior when he knocked on the door and an older man let him in to use the restroom. Padilla was asked about the QX50 Infiniti vehicle that was parked on the road. Padilla initially expressed him being surprised and stated “they” left the car there? Padilla was told his EBT card was found in the car by the driver’s seat. Padilla eventually admitted the car was his and that “people” did bring him “stuff” but he didn’t know it belonged to the BIA. SA Fischer asked how he affords a new Infiniti being homeless and his admission of being a heroin addict. Padilla stated he bought the car off someone for \$900.00, from his stimulus check. Padilla stated there were people that had a “bunch of rifles” and they needed him to transport them. Padilla was asked who these people were and Padilla responded HF knew these people that needed a ride. Padilla stated he gave them a ride and helped out. Padilla stated he met “them”, a male and female, at the Apply Valley Estates Housing (Española, NM) at the park. They were sitting at the park with a big bag and were trying to sell the guns so Padilla was driving them

around. According to Padilla the couple got into a fight and walked off, leaving the firearms in his car. When asked about if anyone purchased any of the guns, Padilla said nobody bought any. The interview was concluded.

On this same day (March 20, 2020), BIA Agents and a K9 Officer conducted a search of the QX50 Infiniti, at the BIA-NPA Office. During the search, an EBT card with the name Derek Padilla; Notice of Docket Call for Derek Nicholas Padilla from the State of New Mexico, Santa Fe County Magistrate Court in Santa Fe, and twelve firearms were found inside the vehicle. The twelve firearms were verified as stolen from the BIA-NPA-OJS Compound, which were confirmed through an inventory that was conducted on May 21-22, 2020. Also recovered during the search of the Infiniti were: green leafy substance and white powdery substance in baggies with evidence tape identified to be evidence from the BIA NPA Evidence room at the compound; syringes which Padilla admitted were his during his interview; MRE's matching the ones at the BIA NPA-Fire sections at the compound; and a placard with "Character: Isobel, PROMOTIONAL: MY19 QX50 INFINITI, ROSWELL NM, Season 1", which linked the vehicle to a vehicle stolen from Santa Fe Studios, Santa Fe, NM.

On May 21, 2020, BIA Special Agent (SA) Lyle Benally confirmed the abandoned QX50 Infiniti had been stolen from the Santa Fe Studios in Santa Fe, New Mexico. Studio employees had discovered the vehicle missing as SA Benally was contacting them to confirm the vehicle had, in fact, been stolen. The SFCSD was notified and took an incident report of the stolen vehicle on this same day. Deputies stated the vehicle was believed to have been stolen between May 16, 2020 and May 21, 2020.

On May 22, 2020, at 9:34 p.m. BIA K9 Officer Vigil was traveling on North Paseo De Onate, Espanola, New Mexico, when he observed a white truck with a government license plate. This vehicle was identified to be the White Ford F-250, 4 door, pickup truck (utility truck) that was stolen from the BIA NPA Storage Compound. The vehicle was described to increase speed resulting in a police pursuit. The vehicle failed to stop, and continued to travel in a reckless manner while eluding police. The vehicle crashed, two suspect(s) ran from the crash site. Police located the two suspects and both were detained. The suspects were identified as Derek Padilla (YOB: 1990) and Brian Pacheco (YOB: 1990). The crashed vehicle was a White Ford F-250, 4 door, pickup truck (utility truck), with government license Plate: G633736W, VIN: 1FD7W2B6XKEF82250.

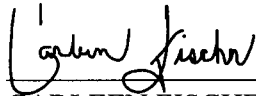
The Pojoaque Tribal Police Department and New Mexico State Police (NMSP) assisted with the investigation of the incident. NMSP entered the vehicle and observed items believed to be stolen. Among items in the truck were MRE's consistent with the ones at the BIA-NPA Compound and found in the QX50 Infinity. The NMSP is the investigating agency in regards to the crash investigation. The vehicle was towed to the BIA-NPA OJS Office in Ohkay Owingeh where it was secured.

On May 24, 2020, at 1:35 p.m., BIA Lieutenant Warren Candelaria was contacted by SFCSD Corporal Josh David who advised they had just arrested Derek Padilla for breaking into a studio in Santa Fe, New Mexico and was currently in custody at the Santa Fe County Detention Center in Santa Fe, New Mexico. SA Fischer confirmed the sheriff's office this studio was the same studio where the QX50 Infiniti was stolen from. SFCSD advised Padilla was attempting to steal a Jeep.

Based on the facts as set forth in this affidavit, there is probable cause exists to arrest Derek Nicholas Padilla, YOB: 1990 for the following crimes 18 U.S.C. § 641, Theft of Government Property.

I swear that this information is true to the best of my knowledge and belief.

Respectfully,

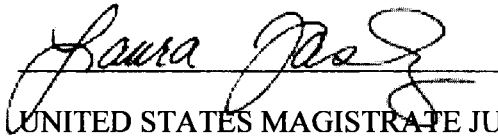


CARLEEN FISCHER

Special Agent

Bureau of Indian Affairs

Sworn to before me by
telephone this 27th day
of May, 2020.



UNITED STATES MAGISTRATE JUDGE

Approved by telephone by SAUSA Kyle Nayback, on May 27, 2020.